

DT20 Rec'd PCT/PT 2 4 JUL 2003

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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application

10/031,165

Filing Date

First Named

Sheena M. Loosmore

Group Art Unit

Examiner Name

Total Number of Pages in This Submission

9

Attorney Docket Number

1038-1217

ENCLOSURES (check all that apply)☒ Fee Transmittal Form☒ Fee Attached☐ Amendment / Response☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53☐ Assignment Papers
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ After Allowance Communication
to Group☐ Appeal Communication to Board
of Appeals and Interferences☐ Appeal Communication to Group
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please
identify below):**Renewed Petition under 37 C.F.R.
1.47(a)
Declaration**

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENTFirm
or
Individual nameMichael I. Stewart
Registration No. 24,973

Signature



Date

July 22, 2003

CERTIFICATE OF MAILINGI hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date:

Typed or printed name

Signature

Date

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FEE TRANSMITTAL for FY 2003 <i>Effective 01/01/2003. Patent fees are subject to annual revision.</i>		Complete if Known	
		Application Number	10/031,165
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	
		First Named Inventor	Sheena M. Loosmore
TOTAL AMOUNT OF PAYMENT (\$)		Examiner Name	
		Group Art Unit	
		Attorney Docket No.	1038-1217 MIS

METHOD OF PAYMENT (check all that apply)				FEE CALCULATION (continued)																																																																																																																																																																																											
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/> Deposit Account: Deposit Account Number: <input type="text"/> Deposit Account Name: <input type="text"/> The Commissioner is authorized to: (check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Credit any overpayments <input type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.				3. ADDITIONAL FEES <table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr><tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr><tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non - English specification</td><td></td></tr><tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr><tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr><tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr><tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr><tr><td>1252</td><td>410</td><td>2252</td><td>205</td><td>Extension for reply within second month</td><td></td></tr><tr><td>1253</td><td>930</td><td>2253</td><td>465</td><td>Extension for reply within third month</td><td>930.00</td></tr><tr><td>1254</td><td>1,450</td><td>2254</td><td>725</td><td>Extension for reply within fourth month</td><td></td></tr><tr><td>1255</td><td>1,970</td><td>2255</td><td>985</td><td>Extension for reply within fifth month</td><td></td></tr><tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td><td></td></tr><tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr><tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td><td></td></tr><tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr><tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - unavoidable</td><td></td></tr><tr><td>1453</td><td>1,300</td><td>2453</td><td>650</td><td>Petition to revive - unintentional</td><td></td></tr><tr><td>1501</td><td>1,300</td><td>2501</td><td>650</td><td>Utility issue fee (or reissue)</td><td></td></tr><tr><td>1502</td><td>470</td><td>2502</td><td>235</td><td>Design issue fee</td><td></td></tr><tr><td>1503</td><td>630</td><td>2503</td><td>315</td><td>Plant issue fee</td><td></td></tr><tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr><tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Processing fee under 37 CFR § 1.17(q)</td><td></td></tr><tr><td>1806</td><td>180</td><td>1806</td><td>180</td><td>Submission of Information Disclosure Statement</td><td></td></tr><tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr><tr><td>1809</td><td>750</td><td>2809</td><td>375</td><td>Filing a submission after final rejection (37 CFR § 1.129(a)).</td><td></td></tr><tr><td>1810</td><td>750</td><td>2810</td><td>375</td><td>For each additional invention to be examined (37 CFR § 1.129(b)).</td><td></td></tr><tr><td>1801</td><td>750</td><td>2801</td><td>375</td><td>Request for Continued Examination (RCE)</td><td></td></tr><tr><td>1802</td><td>900</td><td>1802</td><td>900</td><td>Request for expedited examination of a design application</td><td></td></tr><tr><td colspan="4">Other fee (specify) _____</td><td colspan="2"></td></tr></tbody></table>				Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1051	130	2051	65	Surcharge - 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SUBMITTED BY		Complete (if applicable)			
Name (Print/Type)	Michael I. Stewart	Registration No. (Attorney/Agent)	24,973	Telephone	(416) 595-1155
Signature		Date	July 22, 2003		

WARNING: Information in this form may become public. Credit card information should not be included in this form. Provide credit card information and authorization on

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



Rec'd PCT/PTO 24 JUL 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore et al.
Appl'n. No. : 10/031,165
Filed : N/A
Title : RECOMBINANT HIGH MOLECULAR WEIGHT MAJOR OUTER
MEMBRANE PROTEIN OR MORAXELLA
Docket No. : 1038-1217 MIS

July 22, 2003

BY COURIER

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

RENEWED PETITION UNDER 37 C.F.R. 1.47(a)

This Renewed Petition is submitted pursuant to the Decision on Petition dated March 18, 2003. Petition is hereby made under the provision of 37 CFR 1.136(a) for an extension of three-months of the period for submitting this Renewed Petition. Our cheque in respect of the prescribed fees is enclosed.

The applicants filed a Petition under 37 CFR 1.47(a) on October 3, 2002 requesting acceptance of the application without the signature of the inventor, Ken Sasaki, on the grounds that the non-signing inventor refused to execute the Declaration.

The Decision on Petition dated March 18, 2003 indicated that four items must accompany a Petition made under 37 CFR 1.47(a):

- (1) the required Petition fee,
- (2) factual proof that the non-signing inventor refused to execute the application,
- (3) a statement of last known address of the non-signing inventor, and
- (4) Oath or Declaration executed by each available joint inventor on his behalf and on behalf of the non-signing inventor.

RECEIVED

26 AUG 2003

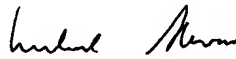
**Legal Staff
International Division**

The Decision on Petition indicates that Item (2) had not been satisfied. To satisfy Item (2), submitted herewith is a further Declaration of Mr. Reza Yacoob demonstrating further attempts to secure execution of a Declaration and Power of Attorney by Ken Sasaki. It is submitted that the conduct of Mr. Sasaki, not only in this application, but also in Application No. 10/030,313, is tantamount to refusal to sign the paper. It is submitted that the requirements of Item (2) now have been satisfied.

The Decision on Petition pointed out that Mr. Yacoob's correspondence with Mr. Sasaki was directed to MDS Pharmaceuticals. Unfortunately, a clerical error is contained in the papers previously submitted and the correct name of the entity is NPS Pharmaceuticals. As explained in the enclosed Declaration of Reza Yacoob, this paper and more recent correspondence are directed to Mr. Ken Sasaki at his place of business, NPS Pharmaceuticals, because this is the forwarding address he gave the Human Resources Department of his former employer when he terminated employment.

It is submitted that the Petition under 37 C.F.R. 1.47(a) should be granted.

Respectfully submitted,



M.I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada,
(416) 595-1155
FAX No. (416) 595-1163



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Docket No. : 1038-1217 MIS

BY COURIER

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

DECLARATION UNDER 37 CFR 1.47 (a)

I, Reza Yacoob, of 5353 Floral Hill Crescent, Mississauga, Ontario, L5V 1V2,
declare as follows:

1. I am the same Reza Yacoob who signed the Declaration under 37 CFR 1.47(a) dated August 13, 2002 and have personal knowledge of the facts set forth herein.
2. I sent to Ken Sasaki by Federal Express on May 30, 2003 a copy of the Declaration and Power of Attorney, with a request that it be signed and returned, along with a copy of published PCT WO 01/07619 of which this application is the U.S. National Phase filing. This letter was addressed to his last known address, c/o NPS Pharmaceuticals. I included a return FedEx envelope. I append hereto as Exhibit I a copy of that letter.
3. This package was given FedEx tracking number 792258623991 and was delivered to NPS Pharmaceuticals on June 2, 2003 and signed by a receptionist. I append as Exhibit II a FedEx record of the tracking details.

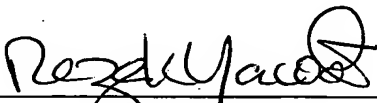
4. On June 10, 2003, I telephoned Ken Sasaki at NPS and left a voice-mail message regarding the Declaration, whether he was going to sign it and to advise as soon as possible either way. When I received no reply to this message, I telephone Ken Sasaki again on June 17, 2003 and again reached his voice mail. I again left a message asking if he had signed the document and returned it and requested that he call me back if he had any questions or concerns or at least to indicate he would not sign the document.

5. To date, I have received no return phone call and neither has the signed Declaration and Power of Attorney been received.

6. My prior correspondence referred to in my Declaration of August 13, 2002 and referred to in this Declaration were directed to Ken Sasaki at his place of business, namely NPS Pharmaceuticals, since this is the forwarding address that Ken Sasaki gave the Human Resources Department of Aventis Pasteur Limited upon the termination of his employment on November 19, 2001.

7. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and believe are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Declared at Toronto on 16th day of July, 2003.



Reza Yacoob



Aventis Pasteur

Research & Development
Intellectual Property

Dr. Ken Sasaki
NPS Pharmaceuticals
6850 Goreway Drive
Mississauga, Ontario
L4V 1V7

SENT BY COURIER

30 May 2003

Our ref. 1038-1217

Re.: New National Phase Patent Applications
pursuant to PCT/CA00/00870
RECOMBINANT HIGH MOLECULAR
WEIGHT MAJOR OUTER MEMBRANE
PROTEIN OF MORAXELLA

Dear Dr. Sasaki,

We have proceeded with the National Phase applications in Australia, Canada, Europe, New Zealand and the United States. A copy of the PCT publication is enclosed. There is the usual Declaration and Power of Attorney paper requiring your signature with respect to these filings and this document is enclosed. We look forward to the prompt return of the executed document. A return Federal Express envelope is also enclosed for your convenience.

Yours sincerely,

Reza Yacoob, M.Sc.
Technical Specialist

Enclosures

Track shipments

Detailed results

Tracking number 792258623991
Reference number 215358
Ship date 05/30/2003
Delivered to Receipt/Frnt desk
Delivery location MISSISSAUGA CA
Delivery date/time 06/02/2003 09:43
Signed for by T.REGO
Service type Priority Envelope



Request copy of signature

Email your detailed tracking results

From
To
To
To

Add a message to this email

Scan activity	Date/Time	Comments
Delivered/MISSISSAUGA CA	06/02/2003 09:43	
On FedEx vehicle for delivery/MISSISSAUGA CA	06/02/2003 09:14	
Arrived at FedEx Destination Location/MISSISSAUGA CA	06/02/2003 07:22	
Left FedEx Ramp/MISSISSAUGA CA	06/02/2003 02:57	
Arrived at FedEx Ramp/MISSISSAUGA CA	05/30/2003 20:32	
Left FedEx Origin Location/DON MILLS CA	05/30/2003 18:54	
Picked up by FedEx/DON MILLS CA	05/30/2003 17:38	

[Ship](#) [Track/History](#) [Address Book](#) [Preferences](#) [Fast Ship](#) [Reports](#)[<< Log out](#) [Home](#)[? Quick help](#)

Shipment Details

Ship To:	Ken Sasaki NPS Pharmaceuticals 6850 Goreway Drive Mississauga, ON L4V1V7 CA 905-677-0831	Type of Package:	FedEx Envelope
		Pickup/Drop Off	will use scheduled pickup
		Total Weight:	0.5 KGS
		Declared Value:	0 CAD
		Shipper Account Number:	104704069
From:	NADIA DUMAIS AVENTIS PASTEUR LIMITED 1755 STEELES AVENUE WEST CONNAUGHT CAMPUS TORONTO, ON M2R3T4 CA 416-667-2910	Bill Shipment To:	104704069
		Courtesy Rate Quote*:	*0.09
		Special Services	
Tracking Number:	792258623991		
Your reference	215358		
Ship date:	May 30 2003		
Type of service:	Priority Overnight		

[Print](#)[Return to History](#) [Track shipment](#)

Please Note

*The courtesy rate shown here may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheets for details on how shipping charges are calculated.

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore et al.
Appl'n. No. : 10/031,165
Filed : N/A
Title : RECOMBINANT HIGH MOLECULAR WEIGHT MAJOR OUTER
MEMBRANE PROTEIN OR MORAXELLA
Docket No. : 1038-1217 MIS

July 10, 2003

BY COURIER

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

RENEWED PETITION UNDER 37 C.F.R. 1.47(a)

This Renewed Petition is submitted pursuant to the Decision on Petition dated March 18, 2003. Petition is hereby made under the provision of 37 CFR 1.136(a) for an extension of ~~two~~^{three} months of the period for submitting this Renewed Petition. Our cheque in respect of the prescribed fees is enclosed.

The applicants filed a Petition under 37 CFR 1.47(a) on October 3, 2002 requesting acceptance of the application without the signature of the inventor, Ken Sasaki, on the grounds that the non-signing inventor refused to execute the Declaration.

The Decision on Petition dated March 18, 2003 indicated that four items must accompany a Petition made under 37 CFR 1.47(a):

- (1) the required Petition fee,
- (2) factual proof that the non-signing inventor refused to execute the application,
- (3) a statement of last known address of the non-signing inventor, and
- (4) Oath or Declaration executed by each available joint inventor on his behalf and on behalf of the non-signing inventor.